

STATEMENT OF CLARK KENT ERVIN, FORMER INSPECTOR GENERAL OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY BEFORE THE HOUSE COMMITTEE ON HOMELAND SECURITY, April 4, 2006

Thank you, Chairman King, and Ranking Member Thompson, for inviting me to testify this afternoon on a bill, H.R. 4954 (the “Safe Port Act”), designed to enhance maritime and cargo security. This could not be a more timely and important topic. If there is any good news to emerge from the recently scuttled proposed sale of terminal operations at six American seaports to a Dubai-owned company other than the fact that the deal was scuttled, it is that it has highlighted just how vulnerable our ports already are to terrorist penetration.

Thanks to the debate over the Dubai deal, more Americans have come to learn that only about 6% of the 27,000 or so containers that enter our seaports each day are inspected to determine whether they contain weapons of mass destruction or other deadly cargo, including terrorists themselves. The Department of Homeland Security has consistently claimed that we should not be troubled by this low percentage because the Customs and Border Protection’s “targeting” efforts are so precise that we can be assured that the 94% of cargo that is not inspected is low-risk. However, studies by the DHS Office of Inspector General, the Government Accountability Office, and, just last week by the Senate Homeland Security and Governmental Affairs’ Permanent Subcommittee on Investigations have all found the “ATS” (for, “Automated Targeting System”) used by Customs to distinguish between high and low-risk shipments to be flawed.

The other program that Customs cites to comfort those who rightly believe that a 6% inspection rate is far too low is the “Container Security Initiative,” or “CSI.” The theory behind CSI is unassailable – if a container with a weapon of mass destruction inside is not inspected until it arrives at an American seaport, it might be too late. So, through CSI, Customs “pushes the border out,” by obtaining the agreement of foreign ports to inspect containers bound for the U.S. before the ships that carry them set sail.

The problem, though, is that foreign inspectors often refuse to inspect containers that we Americans deem to be high-risk. Less than a fifth of the containers that we believe should be inspected abroad – 17.5% to be precise – are in fact inspected by foreign ports. Ports in France, for example, refuse to inspect about 60% of cargo we deem to be high-risk. Furthermore, because, as noted above, the ATS targeting systems is flawed, chances are we should be requesting more inspections than the 13% worldwide that we are requesting.

Another program that Customs disingenuously touts as a cargo security measure is the CTPAT or Customs Trade Partnership Against Terrorist program. Companies in the global maritime supply chain can reduce the chances of their cargo’s being inspected by simply submitting paperwork to Customs claiming that they have rigorous security measures in place, provided they have no history of shipping deadly cargo. The problem is that the benefit of a decreased chance of inspection is extended *before* Customs investigators get around to verifying that the security measures the companies claim to have in place are in fact in place. According to the

same Senate subcommittee referenced above, less than a third (27%) of the companies in the program are validated beforehand.

Finally, when cargo containers are inspected, there is no assurance that any weapons of mass destruction within them will be found because there is too little radiation detection equipment deployed here at home and abroad at CSI ports, and the equipment that there is does not work all that well.

According to a New York Times account of the work of the referenced Senate subcommittee, only about 700 of the planned for 3,000 radiation portal monitors have been installed here in this country. At the average deployment rate last year of 22 per month, full deployment will not occur until 2009 at the earliest. Furthermore, radiation portal monitors are imperfect at best. They can detect radiation and pinpoint its location within a container, but they cannot distinguish between deadly radiation and the innocuous kind that naturally occurs in, say, kitty litter, bananas, and ceramics.

In short, then, our maritime sector is dangerously insecure. All experts agree that the likeliest way for terrorists to smuggle a weapon of mass destruction into the country would be in a cargo container bound for a U.S. port. Needless to say, a terror attack using a weapon of mass destruction could exceed the impact of 9/11 by several factors of magnitude. So, there is not a moment to waste in enhancing cargo and maritime security.

As for HR 4954, overall, I believe that it is a step in the right direction. But, in my judgment, certain provisions should be strengthened. For example, with regard to ATS, the Secretary of Homeland Security should be *required* to reduce the time period allowed by law for revisions to the cargo manifest, not just invited to consider doing so. The fact that the manifest can now be revised for up to 60 days *after* the ship arrives in the United States makes a mockery of the manifest as a targeting tool. Further, the manifest can now be written in such a vague fashion that it can likewise be rendered meaningless. Greater specificity must be required.

As for the deployment of radiation detection equipment, I believe that more than a *plan* from the Secretary should be required at this point, nearly five years after 9/11 and more than three years since the creation of the department. The money to do so must be appropriated, of course, but I would *require* the Secretary to deploy an adequate supply of radiation detection equipment to every American seaport and every foreign port from which cargo bound for the United States sets sail within a time certain, but no later than one year from enactment. We showed, in the aftermath of 9/11 that we can move at warp speed when we have the requisite sense of urgency; though, thankfully five years have passed since the last attack, there should be no less of a sense of urgency today.

And, it's not just a matter of deploying equipment. The equipment needs to work. The department's Domestic Nuclear Detection Office should move with dispatch to develop radiation detection technologies that can detect radiation, pinpoint the location of it, distinguish between harmless and harmful kinds of radiation, *and* be in compliance with the demands of the American National Standards Institute (which none of the radiation detection equipment presently used is).

As for CSI, countries should be discontinued from the program if they consistently refuse to inspect containers that we deem to be high-risk. As for CTPAT, it should become a “trust but verify” program. As presently constituted, the bill keeps it at a “verify but trust” program, by allowing companies to operate under the program for up to one year without validation. Only those companies whose security programs have been validated as rigorous should be given the benefit of a reduced chance of inspection, and the security assessment should be updated annually. This will require significantly more resources, needless to say, but homeland security cannot be done on the cheap.

Thank you, again, for inviting me, and I look forward to your questions.

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